

**UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:

ABC CAPITAL INVESTMENT, LLC,

Debtor.

CHAPTER 7

CASE NO. 22-13060-AMC

**MOTION OF GARY SEITZ AS CHAPTER 7 TRUSTEE
TO COMPEL THE DEBTOR TO TURNOVER RECORDS**

Gary F. Seitz, Esquire, Chapter 7 Trustee (“Trustee”) herein, hereby moves the court to compel the Debtor, ABC Capital Investment, LLC, through its three principals identified as Jason Walsh, Amir Vana and Yaron Zer, to turn over financial records, and in support represents that:

1. On November 15, 2022, a Voluntary Petition under Chapter 7 of Title 11 of the Bankruptcy Code was filed by ABC Capital Investment, LLC (the “Debtor”).
2. On November 15, 2022, Gary F. Seitz was appointed interim trustee.
3. The Creditors’ Meeting under Section 341 of the Bankruptcy Code was scheduled but not held on December 15, 2022 and January 12, 2023 due to the nonappearance of the Debtor.
4. The Meeting was rescheduled for January 19, 2023. The Debtor’s representative, Jason Walsh, appeared to testify on the Debtor’s behalf.
5. At the meeting, the Trustee learned about the financial records of the Debtor and requested that they be turned over.
6. Specifically, the Trustee requested:
 - a. Tax returns
 - b. Bank statements

c. QuickBooks electronic files for the Debtor's accounts (collectively, the "Records").

7. The Records are property of this bankruptcy estate but have not been provided to the Trustee.

8. The Records are necessary to determine whether any transfers of property or assets occurred prior to the bankruptcy filing.

9. The trustee has a fiduciary duty to maximize the value of the estate for the benefit of creditors. To fulfill this duty, the trustee must have access to all of the debtor's financial records, including those that are relevant to transfers of property or assets prior to the bankruptcy filing.

10. The debtor's failure to produce the requested documents and information has hindered the trustee's ability to administer the estate properly, and has prevented the trustee from fulfilling his or her fiduciary duty to the creditors.

11. The debtor has a legal obligation to cooperate with the trustee and to provide all necessary information and documents, and the failure to do so is a violation of the debtor's duty under the bankruptcy code. Section 521(a)(4) of the Bankruptcy Code obligates the Debtor to turn over all property of the estate and records. The Debtor is obligated to cooperate with the Trustee in the fulfillment of his duties. §521(a)(3).

12. Under 11 U.S.C. § 542, the trustee has the authority to compel the debtor to turn over any property of the estate. The requested documents and information are property of the estate, and the debtor is obligated to turn them over to the trustee. The Trustee has repeatedly attempted to resolve this matter with the Debtor informally, but to no avail.

13. In order to complete administration of this case, the Trustee needs the Debtor's Records.

14. The Trustee requests that the Debtor be compelled to turn over all outstanding documents to the Trustee.

15. The Trustee has incurred unnecessary expense due to the Debtor's failure to fulfill its obligations and further requests that the court award the Trustee the costs and fees incurred in bringing this motion, pursuant to 11 U.S.C. § 330 and the court's inherent power to control its docket.

16. The Trustee has spent in excess of two hours in time seeking Debtor's compliance. The Trustee's hourly rate for bankruptcy matters is \$500. The Trustee has over 30 years' experience as an attorney and over 20 years' experience as a trustee. The Trustee's rate is well below the rates published by the Community Legal Services ("CLS") as reasonable in cases in which the law allows for the award of attorney's fees from opposing parties in order to compensate CLS for the legal services provided to its clients¹.

WHEREFORE, the Trustee requests that an order, in the form attached hereto, be entered granting the relief requested., i.e., an order compelling the Debtor to turn over the Records necessary to complete the administration of the estate and reimbursing the Trustee an award of costs and fees for compelling the Debtor to fulfill its obligations.

Dated: February 23, 2023

/S/ Gary F. Seitz

GARY F. SEITZ
Chapter 7 Trustee
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¹ <https://clsphila.org/about-community-legal-services/attorney-fees/>